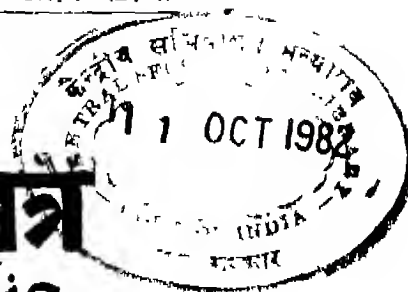




# भारत का राजपत्र The Gazette of India



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EXTRAORDINARY

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन  
के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed  
as a separate compilation

## LOK SABHA

The following Bills were introduced in Lok Sabha on the 13th August, 1982:—

BILL No. 105 OF 1982

*A Bill further to amend the Indian Post Office Act, 1898.*

Be it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Post Office (Amendment) Act, 1982.

Short  
title and  
commence-  
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

6 of 1898.

2. In section 1 of the Indian Post Office Act, 1898 (hereinafter referred to as the principal Act), in sub-section (1), the word "Indian" shall be omitted.

Amend-  
ment of  
section 1.

3. Section 2 of the principal Act shall be re-numbered as sub-section (1) of that section and,—

Amend-  
ment of  
section 2.

(a) in sub-section (1) as so re-numbered,—

(i) for clause (a), the following clause shall be substituted, namely:—

“(a) the expression “Director General” means the Director General of Posts and Telegraphs and includes any other officer authorised to exercise the powers of the Director General;”;

(ii) in clause (d), the words “or her Majesty’s Government or the Government of any British possession” shall be omitted;

(iii) in clause (i), after the word “letter”; the word “letter-card,” shall be inserted;

(iv) for clause (j), the following clause shall be substituted, namely:—

“(j) the expression “Post Master General” includes an Additional Post Master General or a Director of Postal Service or any other officer exercising the powers of the Post Master General;”;

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) Any reference in this Act to a law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area.”.

Amend-  
ment of  
section 3.

4. In clause (c) of section 3 of the principal Act, after the words “according to the usual manner of delivering postal articles to the addressee”, the words “or the placing of a postal article in a post box at the post office rented by the addressee” shall be inserted.

Amend-  
ment of  
section 4.

5. In section 4 of the principal Act,—

(a) in sub-section (1),—

(i) after clause (b), the following clauses shall be inserted, namely:—

“(bb) letters conveyed and delivered by the sender thereof personally;

(bbb) documents issued by a court of justice or other authority entitled to issue the same, or any return or answers to such documents, sent, conveyed and delivered otherwise than by post;”;

(ii) in clause (c), for the words “either by sea or by land” the words “by land, sea or air” shall be substituted;

(b) in sub-section (2), for the word “postcards”, the words “letter-cards and postcards” shall be substituted.

Insertion  
of new  
section 4A.

6. After section 4 of the principal Act, the following section shall be inserted, namely:—

Search  
and  
seizure.

“4A. (1) Any officer (being an officer not below the rank of Sub Divisional Inspector of Post Offices) authorised by the Central Government by general or special order may, if he has reason to believe that any package containing letters of the nature referred to in sub-section (1) of section 4 is or any such letters are in any vehicle or other conveyance or in any premises and that such letters are in the process of being carried in contravention of the provisions of that section, search the said vehicle or other conveyance or premises and seize such letters.

(2) The provisions of the Code of Criminal Procedure, 1973 shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code.

7. In section 5 of the principal Act, in clause (b), after the words "ports or places in India", the words "and owners of or persons in charge of any aircraft on a flight between places in India" shall be inserted.

Amendment of section 5.

8. In section 9 of the principal Act, in sub-section (2),—

Amendment of section 9.

(a) for clause (a), the following clause shall be substituted, namely:—

"(a) that it is published in numbers at such intervals as the Central Government may by rules prescribe;"

(b) after clause (b), the following clause shall be inserted, namely:—

"(c) that its transmission by post is otherwise permissible under this Act."

9. In section 10 of the principal Act,—

Amendment of section 10.

(a) in sub-section (1), for the portion beginning with the words "Where arrangements are" and ending with the words "such possession or country", the following shall be substituted, namely:—

"Where arrangements are in force with any foreign country for the transmission by post of postal articles between India and such country,"

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) The Central Government may also make rules to give effect to such arrangements in respect of postal articles other than those to which sections 36 and 46 apply."

10. In section 15 of the principal Act, for the words "or to the Post Office of the United Kingdom or of any British possession or foreign country," the words "or to the Post Office of any foreign country," shall be substituted.

Amendment of section 15.

11. In section 21 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

Amendment of section 21.

"(4) Where, having regard to the exigencies of postal administration, the Central Government considers it necessary or expedient so to do, it may, by order in writing,—

(a) direct that unregistered postal articles, addressed to an addressee located in a multi-storeyed building or a building with a large compound involving a distance of more than one hundred metres between the outer gate and the building, may be delivered only through a letter deposit box installed for the purpose on the ground floor or, as the case may be, near the gate of such building;

(b) require the owner or lessee of such building to install, or allow any addressee located in such building to install, such letter box.

*Explanation.*—A single letter deposit box or different letter deposit boxes may be installed for different addressees for the purposes of this sub-section."

Amend-  
ment of  
section 23.

12. In section 23 of the principal Act, in sub-section (3), after clause (b), the following proviso shall be inserted, namely:—

“Provided that before any such article as is specified in clause (a) of section 20 is destroyed, notices in writing shall be sent to the sender and the addressee, and the article shall not be destroyed until the expiry of one month from the date on which the last of such notices is sent.”.

Substitu-  
tion of  
new  
section for  
section 26.

13. For section 26 of the principal Act, the following section shall be substituted, namely:—

Power to  
intercept  
postal  
articles  
for  
public  
good.

“26. The Central Government or the State Government or any officer specially authorised in this behalf by the Central or the State Government, may, if satisfied that it is necessary or expedient so to do in the interests of the public safety or tranquillity, the sovereignty and integrity of India, the security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any offence, or on the occurrence of any public emergency, by order in writing, direct that any postal article or class or description of postal articles in course of transmission by post, shall be intercepted or detained or shall be disposed of in such manner as the authority issuing the order, may direct.”.

Amend-  
ment of  
section 27.

14. In section 27 of the principal Act, in the *Explanation*,—

(a) for the words “any part of India or of His Majesty’s Dominions or foreign country”, the words “India or foreign country” shall be substituted; and

(b) for the words “Government of such part or country”, the words “Government of India or of such country” shall be substituted.

Amend-  
ment of  
section  
27C.

15. In section 27C of the principal Act,—

(a) for the words, figures and letters “sections 99D to 99F of the Code of Criminal Procedure, 1898”, the words and figures “section 96 of the Code of Criminal Procedure, 1973” shall be substituted;

5 of 1898.  
2 of 1974.

(b) for the figures and letter “99C”, the figures “96” shall be substituted.

Amend-  
ment of  
section 34.

16. In section 34 of the principal Act, in the proviso, for the words “that sum has been received from the addressee”, the words “the postal article has been delivered to the addressee” shall be substituted.

Amend-  
ment of  
section 36.

17. In section 36 of the principal Act, in sub-section (1),—

(a) for the words “with the United Kingdom or with any British possession or foreign country”, the words “with any foreign country” shall be substituted;

(b) for the words “and the United Kingdom or such possession or country”, the words “and such country” shall be substituted.

18. In sub-section (3) of section 37 of the principal Act, for the words "be either forwarded, free of further charge," the words ", subject to such further charge as the Central Government may by rule prescribe, be either forwarded" shall be substituted.

Amend-  
ment of  
section 37.

19. In section 39 of the principal Act, in the proviso, in paragraph (a), after the word, "letters", the word ", letter-cards", shall be inserted.

Amend-  
ment of  
section 39.

20. After section 43 of the principal Act, the following section shall be inserted, namely:—

Insertion  
of new  
section  
43A.

"43A. Money orders shall be paid at such times and in such manner as the Director General may, from time to time, appoint."

Time and  
manner  
of pay-  
ment of  
money  
orders.

21. In section 46 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amend-  
ment of  
section 46.

"(1) Where arrangements made with any foreign country are in force for the issue and payment, through the Post Office, of money orders between India and such country, the Central Government may make rules to give effect to such arrangements."

22. After section 47 of the principal Act, the following section shall be inserted, namely:—

Insertion  
of new  
section  
47A.

"47A. If any person, without reasonable excuse, the burden of proving which shall lie on him, neglects or refuses to pay the value of the value-payable article delivered to him without recovering the value of the article, such amount shall be recoverable by an officer of the Post Office authorised by the Post Master General in this behalf, from the person so neglecting or refusing as if it were an arrear of land revenue due from him."

Recovery  
of value  
of value-  
payable  
article.

23. In section 52 of the principal Act, for the words "imprisonment for a term which may extend to seven years", the words "imprisonment for life or for a term which may extend to ten years" shall be substituted.

Amend-  
ment of  
section 52.

24. After section 56 of the principal Act, the following section shall be inserted, namely:—

Insertion  
of new  
section  
56A.

'56A. If any person,—

(a) commits theft in respect of—

(i) a mail bag, or

(ii) any postal article in course of transmission by post,

or

(iii) any movable property out of a postal article in course of transmission by post, or

Stealing  
mail bag  
or postal  
article.

(b) stops a mail with intent to rob or search the mail,

he shall be punishable with imprisonment for life or for a term which may extend to ten years or with fine or with both.

*Explanation.*—For the purposes of this section, the expression “mail” includes every conveyance by which postal articles are carried, whether it be a ship, aircraft, vehicle, horse or any other conveyance and also a person employed in conveying or delivering postal articles.’

Amend-  
ment of  
section 58.

25. In section 58 of the principal Act,—

(a) in sub-section (1), for the words “with fine which may extend to fifty rupees for every such letter”, the words “with imprisonment for a term which may extend to three years or with fine or with both” shall be substituted;

(b) sub-section (2) shall be omitted.

Amend-  
ment of  
section 59.

26. In Sub-section (1) of section 59 of the principal Act,—

(a) for the words “with fine which may extend to fifty rupees for every such letter”, the words “with imprisonment for a term which may extend to three years or with fine or with both” shall be substituted;

(b) sub-section (2) shall be omitted.

Amend-  
ment of  
section 64

27. In section 64 of the principal Act, for the words “by this Act”, the words “by or under this Act” shall be substituted.

Amend-  
ment of  
section 67.

28. In section 67 of the principal Act, in the proviso, for the words and figures “the Code of Criminal Procedure, 1898”, the words and figures “the Code of Criminal Procedure, 1973” shall be substituted.

5 of 1898.  
2 of 1974.

Amend-  
ment of  
section 69.

29. In section 69 of the principal Act, for the word “letter”, occurring at both the places, the words “postal article” shall be substituted.

Insertion  
of new  
section  
72A.

30. After section 72 of the principal Act, the following section shall be inserted, namely:—

Trial of  
offences.

“72A. (1) An offence under this Act may be tried by any court within the local limits of whose jurisdiction it was committed or the alleged offender is arrested or is in custody or, where the offence is in respect of a mail, mail bag, postal article, or money order or any movable property sent by post, within the local limits of whose jurisdiction the mail, mail bag, postal article, money order or movable property passed in the course of transmission by post.

(2) Abetment of an offence under this Act may be tried by any court by which the offence abetted may be tried.

(3) Nothing in this section shall affect the jurisdiction of a court competent to try an offence under this Act by virtue of the provisions of the Code of Criminal Procedure, 1973.”

2 of 1974.



31. In section 72 of the principal Act, the figures "58, 59," shall be omitted.

Amend-  
ment of  
section 72.

32. Section 73 of the principal Act shall be omitted.

Omission  
of sec-  
tion 73.

33. In section 74 of the principal Act,—

Amend-  
ment of  
section 74.

(a) in sub-section (3), the words "and, on such publication, shall have effect as if enacted by this Act" shall be omitted;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

## STATEMENT OF OBJECTS AND REASONS

The Indian Post Office Act was enacted in 1898. The Law Commission has in its Thirty-eighth Report made a number of recommendations for the revision of the Act. Thereafter, the matter was further examined in detail. This Bill seeks to give effect to such of the recommendations made by the Law Commission as have been found acceptable and it also seeks to make certain other amendments in the Act for dealing with difficulties which have been experienced in the working of the Act.

2. Section 26 of the Act provides that on the occurrence of any public emergency or in the interests of the public safety and tranquility, the Central Government or a State Government or any authorised officer may, by order in writing, direct that any postal article or class or description of postal articles in course of transmission by post shall be intercepted or detained or disposed of in such manner as the authority issuing the order may direct. There has been a demand that the provisions of this section should be reviewed. The Law Commission has, in its Report, gone into the matter at great length. It is proposed to amend this section so as to clearly bring the provisions thereof within the limits permitted by the Constitution (*vide* clause 13).

3. The following are the other important amendments which the Bill seeks to make in the Act:—

(a) The Bill provides for exemption from the purview of the exclusive privilege of the Central Government to convey letters, items like strictly personal letters, documents issued by court of justice or other authorities entitled to do so and letters concerning goods or property sent by any means without any consideration (*vide* clause 5).

(b) The Bill seeks to empower the Central Government to inspect and seize packages containing letters posted in violation of the Act and the manner in which such power is to be exercised (*vide* clause 6).

(c) To obviate the difficulty experienced in effecting delivery of postal articles to residents of multi-storeyed buildings or buildings with large compounds, the Bill seeks to empower the Central Government to direct fixing of letter-deposit-boxes in such places (*vide* clause 11).

(d) Under the existing provisions of the Act, the Government accepts liability in respect of sum specified for recovery of delivery of value payable articles only when the sum has been received from the addressee. The Bill provides for the assumption of liability to pay even when such articles are delivered to an addressee without recovering the value by mistake. Consequent upon the assumption of this liability, the Central Government is proposed to be empowered



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to collect the amount from the addressee as an arrear of land revenue, if the addressee neglects or refuses to pay the same on demand (*vide* clauses 16 and 22).

(e) The Bill seeks to make the punishments provided for in the Act more stringent (*vide* clauses 23, 24, 25 and 26).

4. It is also proposed to avail of the present opportunity to include in the Act a provision for the laying of rules made under the Act before Parliament.

5. The Notes on Clauses explain in detail the various provisions of the Bill.

NEW DELHI,  
The 2nd August, 1982.

C. M. STEPHEN.

*Notes on clauses*

*Clause 2.*—This clause seeks to omit the word 'Indian' from the expression 'Indian Post Office Act, 1898' to bring it into conformity with recent legislative practice.

*Clause 3(a) (i), (iii) and (iv).*—These sub-clauses seek to define the expressions 'Director General' and 'Post Master General' in the light of the changed set up in the Department. They also seek to add the word 'letter-card' in the expression 'postal article' to make it comprehensive.

*Clauses 3(a) (ii), 9, 10, 14, 17 and 21.*—These clauses seek to omit the references to 'United Kingdom', 'British Possessions', 'Her Majesty's, etc., from the concerned provisions of the Act as they are no longer relevant.

*Clause 3 (b).*—This sub-clause seeks to insert a new sub-section for construction of references to a law in the Act which is not in force in any area to be construed as a reference to the corresponding law, if any, in force in that area.

*Clause 4.*—This clause seeks to make the definition of the word "delivery" more comprehensive by bringing the delivery of postal articles in post boxes in its ambit.

*Clause 5.*—This clause enumerates the types of letters exempted from the purview of the exclusive privilege given to the Department for conveyance of letters. Under this clause, conveyance of strictly personal letters, documents issued by a Court of Justice or other authorities entitled to issue the same and letters concerning goods or property sent by air without any consideration also will be exempted from the exclusive privilege of conveyance of postal articles granted to the Department. It is proposed to widen the expression 'letters' so as to include 'letter-cards' in it.

*Clause 6.*—This clause provides for power to search and seize packages containing letters posted in violation of the Act and the manner in which this power is to be exercised.

*Clause 7.*—This clause seeks to include the owners or persons in charge of any aircraft on a flight between places in India in the list of persons expressly forbidden to convey letters.

*Clause 8.*—This clause enumerates the eligibility criteria which a registered newspaper should have to enjoy the concessional postage facility. Under this clause, a registered newspaper for the purpose of availing concessional postage facility should be published at such intervals as the Central Government may by rules prescribe (and should have a *bona fide* list of subscribers) and should be otherwise eligible for transmission by post under this Act.

*Clause 11.*—This clause seeks to empower the Central Government to frame rules making it obligatory on the part of the owner or lessee or any addressee located in a multi-storeyed building or building with a large compound to fix letter-deposit boxes for delivery of unregistered letters on the ground floor or at the gate of the building with a large compound, as the case may be. This is to overcome the difficulties ex-

perienced in delivering letters in multi-storeyed buildings or buildings with large compounds.

*Clause 12.*—This clause deals with the procedure to be observed before destroying the articles posted in contravention of the Act. Under this clause, before destroying any article posted in contravention of the Act, notices in writing are to be sent to the sender and the addressee and the article is to be destroyed only after the expiry of one month from the date on which the last of such notices is sent.

*Clause 13.*—This clause seeks to amend section 26 of the Act. Under this section, the Central Government or a State Government or any officer specially authorised for this purpose shall have the powers to direct that postal articles or class or description of postal articles in course of transmission by post shall be intercepted on the occurrence of any public emergency or in the interest of the public safety or tranquillity. To bring section 26 in line with the constitutional provisions, it is proposed to provide that on the occurrence of any public emergency, or in the interests of the public safety, or tranquillity, the Central Government or a State Government, or any officer specially authorised in this behalf by the Central Government or a State Government may if satisfied that it is necessary or expedient to do so in the interests of the sovereignty and integrity of India or the security of the State, or friendly relations with any foreign State or public order or for preventing incitement to the commission of an offence, by order in writing direct that any postal article in course of transmission by post, shall be intercepted or detained or shall be disposed of in such manner as the authority issuing the order may direct.

This clause also seeks to omit sub-section (2) of section 26 so as to provide for judicial review of any action taken under this section.

*Clauses 15 and 28.*—These clauses amend sections 27 C and 67 of the Act to replace the references to certain sections of the Criminal Procedure Code, 1898 by the relevant sections of the Criminal Procedure Code, 1973 which has since replaced the earlier Code.

*Clause 16.*—Section 34 of the Act provides that the Government shall not accept any liability in respect of the sum specified for recovery on delivery of value payable article until and unless that sum has been received from the addressee. This clause provides that the Central Government shall assume liability in respect of a case where value payable article is delivered to an addressee without recovering the value of the article by mistake.

*Clause 18.*—This clause deals with the manner of disposal of undelivered postal articles after detention at a post office for a prescribed period. This clause seeks to empower the Central Government to frame rules under section 37(3) of the Act for levying a further charge for disposal of undelivered article.

*Clause 19.*—Section 39 of the Act deals with the final disposal of undelivered postal articles. Now it is proposed to include letter-cards also therein to make it more explicit.

*Clause 20.*—This clause seeks to make a general provision with regard to the time and manner of payment of money orders as similar provisions relating to registration and insurance already exist.

*Clause 22.*—Consequent upon assuming liability for a value payable article after its delivery to the addressee without recovering the value by mistake, it becomes necessary to assume power to recover the amount as an arrear of land revenue, if the addressee neglects or refuses to pay the same on demand.

*Clause 23.*—Section 52 of the Act deals with the penalty for theft, dishonest misappropriation, secretion, destruction or throwing away of postal articles. Under this section, the punishment for such an offence is imprisonment for a term which may extend to seven years and shall also be punishable with fine. This clause seeks to make the punishment more stringent by extending the imprisonment for life or for a term which may extend to ten years and shall also be punishable with fine.

*Clause 24.*—This clause is self-explanatory.

*Clause 25.*—This clause seeks to make the punishment more stringent for offences committed in violation of the exclusive privilege of conveyance conferred on the Government by providing for imprisonment for a term which may extend to three years or with fine or with both.

*Clause 26.*—This clause also seeks to make the punishment more severe for offences committed by persons who are expressly forbidden from conveying letters under section 5 of the Act.

*Clause 27.*—Section 64 of the Act deals with penalty for making false declarations. At present, the section requires certain declarations to be made in respect of postal articles. Now it is proposed to bring within the ambit of this penal provisions declarations which are required to be made not only by the Act but also by the rules made under the Act.

*Clause 29.*—Section 69 of the Act deals with the penalty for unlawfully diverting letters. The word 'letter' is being replaced by 'postal article' to make the section more comprehensive.

*Clause 30.*—This clause seeks to specify the jurisdiction of courts for trial of offences committed under the Act.

*Clause 31.*—With enhancement of punishment provided in sections 58 and 59 of the Act, the offences punishable under the aforesaid sections would become cognizable. This clause, therefore, seeks to omit the references to sections 58 and 59 from section 72 of the Act.

*Clause 32.*—This clause seeks to omit section 73 of the Act which empowers the Central Government to make rules relating to management of zamindari and other district post, as this system is not in vogue now.

*Clause 33.*—Section 74 of the Act empowers the Government to make rules for carrying out the purposes and the objects of the Act. The Act, however, does not provide for laying the copies of the rules framed thereunder before both Houses of Parliament. This clause seeks to provide that rules framed under the Act will be laid before Parliament. This is in conformity with recent legislative practice.

## FINANCIAL MEMORANDUM

Clause 16 of the Bill proposes to amend section 34 of the Act to provide for the assumption by the Central Government of the liability in respect of sums specified for recovery of delivery of value payable articles even when such articles are delivered to addressees without recovering the value by mistake. It is not possible to estimate as to how much of expenditure would be involved on this since it depends upon the number of mistakes, if at all they occur, from time to time. Further clause 22 proposes to insert new section 47A in the Act to provide that though the Government would first make the payment, the same would be recovered from the concerned addressee as arrear of land revenue if the addressee neglects or refuses to pay the same on demand. Hence the expenditure from the Consolidated Fund of India may, in the final analysis, be nil.

2. Apart from the above, there is no other expenditure whether recurring or non-recurring.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill seeks to amend section 9(2) of the Act, to empower the Central Government to frame rules for prescribing the number of intervals at which any registered newspaper should be published.

2. Clause 9 of the Bill proposes to insert new sub-section (3) in section 10 of the Act so as to empower the Central Government to make rules to **give effect to the arrangements** which are in force with any foreign country for the transmission by post of certain postal articles between India and such country.

3. Clause 11 of the Bill seeks to amend section 21 of the Act to empower the Central Government so as to direct any owner of, or lessee or any addressee located in, a multi-storeyed building or a building with a large compound involving a distance of more than one hundred metres between the outer gate and the building, to install letter deposit boxes at or near the gate of such building.

4. Clause 13 of the Bill proposes to empower the Central or State Government or any officer specially authorised in this behalf to direct that any postal article or class or description of postal articles in course of transmission by post be intercepted or detained or disposed of in such manner as the authority issuing the order may direct. This power will, however, be exercised only where it is necessary or expedient so to do in the interests of the public safety or tranquillity, the sovereignty and integrity of India, the security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any offence or the occurrence of any public emergency.

5. Clause 18 of the Bill seeks to empower the Central Government to frame rules under section 37(3) for levying a further charge for disposal of undelivered articles.

6. Clause 20 of the Bill proposes to insert new section 43A to give power to the Director General to prescribe by rules the time at and manner in which money orders should be paid.

7. Clause 21 of the Bill proposes to substitute sub-section (1) of section 46 of the Act by a new sub-section to empower the Central Government to make rules to **give effect to the arrangements** made with any foreign country for the issue and payment (through the post office) of money orders between India and such foreign country. However such power is with the Central Government even now under sub-section (1) of section 46 which is proposed to be substituted.

8. The matters with respect to which the **rules may be made** are matters of procedure or detail. The delegation of legislative power, is therefore, of a normal character.



## BILL No. 106 OF 1982

*A Bill to provide, in the public interest, for the acquisition of certain shares of the State Bank of Sikkim for the purpose of better consolidation and extension of banking facilities in the State of Sikkim and for matters connected therewith or incidental thereto.*

WHEREAS for the purpose of better consolidation and extension of banking facilities in the State of Sikkim, it is expedient to provide for a single apex banking institution in that State, and for that purpose to provide for the acquisition of certain shares of the State Bank of Sikkim and for matters connected therewith or incidental thereto;

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

1. (1) This Act may be called the State Bank of Sikkim (Acquisition of Shares) and Miscellaneous Provisions Act, 1982.

Short  
title  
and  
com-  
mence-  
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

(a) “appointed day” means the date on which this Act comes into force;

Defini-  
tions.

(b) "co-operative bank" means the Sikkim State Co-operative Bank Limited, a society registered under the Sikkim Co-operative Societies Act, 1978;

Sikkim  
Act No. 12  
of 1978.

(c) "notification" means a notification published in the Official Gazette;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "Sikkim Bank" means the State Bank of Sikkim constituted under the State Bank of Sikkim Proclamation, 1968;

(f) "State Government" means the State Government of Sikkim;

(g) "United Commercial Bank" means the United Commercial Bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;

5 of 1970.

(h) words and expressions used herein and not defined but defined in the Companies Act, 1956, shall have the meanings respectively assigned to them in that Act.

1 of 1956.

## CHAPTER II

### ACQUISITION AND TRANSFER OF CERTAIN SHARES OF SIKKIM BANK

Vest-  
ing in the  
Central  
Govern-  
ment of  
certain  
shares  
of  
Sikkim  
Bank.

3. (1) On the appointed day, all the shares in the share capital of the State Bank of Sikkim, other than the shares held by the State Government, shall, by virtue of this Act, stand transferred to, and shall vest in, the Central Government.

(2) All the shares which have vested in the Central Government under sub-section (1) shall, by force of such vesting, be freed and discharged of all trusts, liabilities, obligations, mortgages, charges, liens and other encumbrances affecting them, and any attachment or injunction or any decree or order of any court, tribunal or other authority restricting the use of such shares in any manner shall be deemed to have been withdrawn.

(3) Notwithstanding the transfer of the shares of the Sikkim Bank to the Central Government under sub-section (1), any person holding such shares, who immediately before the appointed day is entitled to payment of dividend on such shares, shall be entitled to receive from the co-operative bank—

(a) all dividends accruing due on his shares in respect of the half-year which ended before the appointed day and remaining unpaid;

(b) dividends calculated at a rate to be specified by the Central Government in respect of any period immediately preceding the appointed day for which the Sikkim Bank had not declared any dividend.

## CHAPTER III

## VESTING OF UNDERTAKINGS OF SIKKIM BANK IN THE CENTRAL GOVERNMENT

4. On the appointed day, the undertakings of the Sikkim Bank shall, by virtue of this Act, stand transferred to, and shall vest in, the Central Government.

Vest-  
ing of  
under-  
takings  
of  
Sikkim  
Bank.

5. (1) The undertakings of the Sikkim Bank shall be deemed to include all assets, rights, powers, authorities and privileges, and all property, movable and immovable, cash balances, reserve funds, investments and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control of the Sikkim Bank in relation to its undertakings, and all books of account, registers, records and all other documents of whatever nature relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the Sikkim Bank in relation to its undertakings.

General  
effect  
of  
vesting.

(2) Unless otherwise expressly provided in this Act, all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect immediately before the appointed day and to which the Sikkim Bank is a party or which are in favour of the said Bank shall be of as full force and effect against or in favour of the Central Government.

(3) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any business of the undertakings which have been transferred under section 4 is pending by or against the Sikkim Bank, the same shall not abate, be discontinued, or be in any way prejudicially affected by reason of the transfer of the undertakings of the Sikkim Bank or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the Central Government.

6. (1) Notwithstanding anything contained in sections 3, 4 and 5, the Central Government shall, as soon as may be, after the commencement of this Act, direct, by notification, that the shares of the Sikkim Bank which have vested in the Central Government under section 3 and the undertakings of the Sikkim Bank which have vested in the Central Government under section 4 shall, instead of continuing to vest in the Central Government, vest in the State Government of Sikkim, on the date of the notification.

Vesting  
of the  
shares  
and  
under-  
takings  
of  
Sikkim  
Bank  
in the  
State  
Govern-  
ment.

(2) Where the shares and the undertakings of the Sikkim Bank vest in the State Government under sub-section (1), the State Government shall, on and from the date of such vesting, be deemed to have become the owner in relation to such shares and undertakings and all the rights and liabilities of the Central Government in relation to such shares and

undertakings shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of the State Government.

Power of State Government to direct vesting of the undertakings of Sikkim Bank in the Sikkim co-operative bank.

7. (1) Notwithstanding anything contained in sections 4, 5 and 6, the State Government may, if it is satisfied that the co-operative bank is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, including the terms and conditions regarding allotment of its shares, direct, by notification, that the undertakings of the Sikkim Bank which have vested in the Central Government under section 4 and thereafter in the State Government under section 6, shall, instead of continuing to vest in the State Government, vest in the co-operative bank either on the date of the notification or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the notification.

(2) Where the undertakings of the Sikkim Bank vest in the co-operative bank under sub-section (1), that bank shall, on and from the date of such vesting, be deemed to have become the owner in relation to such undertakings, and all the rights and liabilities of the Central Government or the State Government in relation to such undertakings shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of the co-operative bank.

## CHAPTER IV

### PAYMENT OF AMOUNTS

Payment of amounts.

8. (1) For the transfer to, and vesting in, the Central Government, of the shares of the Sikkim Bank under section 3, there shall be given by the Central Government to the holders of such shares in cash and in the manner specified in the Schedule, an amount of rupees eight lakhs five thousand one hundred and forty-five.

(2) The amount specified in sub-section (1) shall carry simple interest at the rate of five and a half per cent. per annum for the period commencing on the appointed day and ending on the date on which payment of such amount is made to the shareholders.

## CHAPTER V

### MANAGEMENT, ETC., OF THE UNDERTAKINGS OF SIKKIM BANK

Management, etc., of the undertakings of Sikkim Bank.

9. (1) The State Government in which the undertakings of the Sikkim Bank have vested under section 6 shall be entitled to exercise all such powers and do all such things as the Sikkim Bank is authorised to exercise and do in relation to its undertakings.

(2) The general superintendence, direction, control and management of the affairs and business of the undertakings of the Sikkim Bank which have vested under section 4 in the Central Government and under section 6 in the State Government shall, where a direction has been made by the State Government under sub-section (1) of section 7, vest

in the co-operative bank specified in such direction, and, thereupon, the co-operative bank shall be entitled to exercise all such powers and do all such things as the Sikkim Bank is authorised to exercise and do in relation to its undertakings.

10. (1) On the vesting of the undertakings of the Sikkim Bank in the State Government under section 6, every person in whose possession or custody or under whose control any property referred to in sub-section (1) of section 5 may be, shall deliver the property to the State Government forthwith.

Date of delivery, possession of property acquired and documents relating thereto.

(2) Any person, who, on the appointed day, has in his possession or under his control any books, documents or other papers relating to the undertakings of the Sikkim Bank which have vested in the State Government under section 6 and which belong to that Bank, or would have so belonged if the undertakings of the Sikkim Bank had not vested in the State Government, shall be liable to account for the said books, documents or other papers to the State Government and shall deliver them up to the State Government.

(3) The State Government may take, or cause to be taken, all necessary steps for securing possession of all properties which have vested in that Government under this Act.

## CHAPTER VI

### PROVISIONS RELATING TO THE EMPLOYEES OF THE SIKKIM BANK

11. (1) Every officer or other employee of the Sikkim Bank (excepting the Managing Director thereof) in the employment of the Sikkim Bank immediately before the appointed day shall become,—

Transfer of service of existing officers and employees of the Sikkim Bank to the co-operative bank.

(a) an officer or other employee of the State Government on and from the appointed day, and

(b) where the undertakings of the Sikkim Bank are directed, under sub-section (1) of section 7, to vest in the co-operative bank, an officer or other employee of the co-operative bank on and from the date of such vesting,

and shall hold his office or service under the State Government or the co-operative bank, as the case may be, with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting and shall continue to do so unless and until his employment under the State Government or the co-operative bank, as the case may be, is duly terminated or until his remuneration and other conditions of service are duly altered by the State Government, or by the co-operative bank, as the case may be.

(2) Any person who, on the appointed day, is entitled to, or is in receipt of, a pension or other superannuation or compassionate allowance or benefit from the Sikkim Bank or any provident fund, pension or other fund or any authority administering such fund shall be entitled to be paid by, and to receive from, the co-operative bank or any provident fund, pension or other fund or any authority administering such fund, the same pension, allowance or benefit so long as he observes the conditions on which the pension, allowance or benefit was granted, and if any question arises as to whether he has so observed such conditions, the question shall be determined by the State Government.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), no appointment made or promotion, increment in salary, pension allowance or any other benefit granted to any person after the 16th day of November, 1976, and before the appointed day which would not ordinarily have been made or granted or which would not ordinarily have been admissible under the rules or authorisations of the Sikkim Bank or of any provident fund or other fund in force prior to the 16th day of November, 1976, shall have effect or be payable or claimable from the co-operative bank or from any provident fund, pension or other fund or from any authority administering the fund, unless the State Government has, by general or special order, confirmed the appointment, promotion or increment, or has directed the continued grant of the pension, allowance or other benefit, as the case may be.

(4) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other employee of the Sikkim Bank to the State Government or the co-operative bank shall not entitle such officer or other employee to any compensation under that Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

14 of 1947.

(5) Any person holding office as Managing Director of the Sikkim Bank immediately before the appointed day shall be deemed to have vacated his office as such on the appointed day and, notwithstanding anything contained in this Act or in any other law for the time being in force or in any agreement or contract, he shall not be entitled to any amount from the Sikkim Bank, State Government, or the co-operative bank for the loss of office or for the premature termination of any agreement or contract relating to his employment, except such pension, amount or other benefit which the co-operative bank may grant to him, having regard to what that person would have received as an officer of the Sikkim Bank if this Act had not been passed and if he had retired from his employment in the ordinary course.

(6) Where the Managing Director of the Sikkim Bank has, after the 16th day of November, 1976 and before the appointed day, been paid any sum by way of compensation or gratuity, the co-operative bank shall be entitled to claim refund of any sum so paid if the payment is not confirmed by the State Government by general or special order.

## CHAPTER VII

### MISCELLANEOUS

Act to  
have  
over-  
riding  
effect.

12. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Act, or in any decree or order of any court, tribunal or other authority.

Protec-  
tion of  
action  
taken in  
good  
faith.

13. (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer of that Government or the State Government, or the co-operative bank or any officer of the State Government or the co-operative bank or other person authorised by the Central Government or the State Government or the co-operative bank, for anything which is in good faith done or intended to be done under this Act.



(2) No suit or other legal proceeding shall lie against the Central Government or any officer or other employee of that Government, or the State Government or the co-operative bank or any officer or other employee of the State Government or of the co-operative bank or other person authorised by the State Government or the co-operative bank, for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

14. Any person who,—

Penalties.

(a) having in his possession, custody or control any property forming part of the undertakings of the Sikkim Bank, wrongfully withholds such property from the Central Government, or the State Government or the co-operative bank; or

(b) wrongfully obtains possession of, or retains, any property forming part of any undertaking of the Sikkim Bank or wilfully withholds or fails to furnish to the Central Government or the State Government or the co-operative bank, or any person or body of persons specified by that Government or the State Government or the co-operative bank, any document relating to such undertaking which may be in his possession, custody or control or fails to deliver to the Central Government, or the State Government or the co-operative bank or any person or body of persons specified by the Central Government or the State Government or the co-operative bank, any assets, books of account, registers or other documents in his possession, custody or control, relating to the undertakings of the Sikkim Bank; or

(c) wrongfully removes or destroys any property forming part of any undertaking of the Sikkim Bank or prefers any claim under this Act which he knows or has reasonable cause to believe to be false or grossly inaccurate,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

15. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

offences  
by  
companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary, or other officer of the company, such director, manager, secretary, or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

Delegation of powers.

16. (1) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Act, other than the powers conferred by sections 17 and 18, may also be exercised by such person or persons as may be specified in the notification.

(2) Whenever any delegation of power is made under sub-section (1), the person to whom such power has been delegated shall act under the direction, control and supervision of the Central Government.

Power of Central Government to make rules.

17. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulties.

18. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the appointed day.

References to Sikkim Bank in other laws.

19. On and from the appointed day, any reference to Sikkim Bank in any law (other than this Act or the State Bank of Sikkim Proclamation, 1968) or in any contract or other instrument shall, except as otherwise provided in any general or special order made by the Central Government, be deemed to be a reference to the co-operative bank.

Dissolution of Sikkim Bank.

20. On the date of the issue of notification under sub-section (1) of section 6, the Sikkim Bank shall stand dissolved, and the State Bank of Sikkim Proclamation, 1968, shall stand repealed.

## THE SCHEDULE

[See section 8(1)]

### MANNER OF PAYMENT OF AMOUNT FOR THE TRANSFER OF SHARES OF THE STATE BANK OF SIKKIM TO THE CENTRAL GOVERNMENT

1. In this Schedule, “shareholder” means any person who, immediately before the appointed day, is registered as the holder of a share in the Sikkim Bank, other than the State Government of Sikkim.

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2. For every share in the share capital of the Sikkim Bank which, by reason of this Act, is transferred to and vested in the Central Government, the Central Government shall pay to every holder thereof in the manner specified in paragraph 3 of this Schedule an amount calculated at the rate of rupees fifty-five per share.

3. Every person who is registered as the holder of a share in the Sikkim Bank on the appointed day and whose shares have been acquired under the provisions of this Act shall, for every such share so held by him, be paid an amount calculated at the rate specified in paragraph 2 by cheque drawn on the Reserve Bank of India.

## STATEMENT OF OBJECTS AND REASONS

In keeping with the accent on rural and agricultural development as part of the strategy for the country's rapid economic progress, Government appointed a Study Team on Institutional Arrangements for Agricultural Credit in Sikkim under the chairmanship of Dr. C. D. Datey, a former Executive Director of the Reserve Bank. One of the terms of reference of the Team was to consider the question of setting up a Regional Rural Bank in Sikkim on the pattern of similar banks established in the country. In its report submitted to the Government, the Team was broadly of the view that in order to meet the banking needs of Sikkim, it would be appropriate to set up a single apex institution which would combine both agricultural and non-agricultural banking operations and also transact Government business. The specific recommendation in this context related to the setting up of a State Co-operative Bank in Sikkim to which the undertakings of the existing State Bank of Sikkim, a bank established under the State Bank of Sikkim Proclamation dated the 24th June, 1968, may be transferred. This recommendation was made solely on the consideration that in Sikkim there is no scope for more than one banking institution of the comprehensive type proposed and that some of the advantages of a State Co-operative Bank will not be available to the State Bank of Sikkim if its separate identity is retained as a banking institution under the Banking Regulation Act, 1949. This recommendation was accepted in principle and the details of the proposals for implementing this recommendation had been worked out. The Sikkim Legislative Assembly has passed the Sikkim Co-operative Societies Act, 1978, and the Sikkim State Co-operative Bank Ltd. had already been registered under that Act. It is now proposed to acquire the undertakings of the State Bank of Sikkim for the purpose of transferring them to the Sikkim State Co-operative Bank Ltd. The Bill seeks to achieve this object.

2. The Bill provides, among other things, for the transfer to, and vesting of all the shares of the State Bank of Sikkim, other than those held by the State Government of Sikkim, and also the undertakings of the said Bank in, the Central Government. Thereafter, the Central Government shall direct, by a notification, that the shares vested in it as also the undertakings of the State Bank of Sikkim shall vest in the State Government of Sikkim. The State Government would direct, by a notification, that the undertakings of the State Bank of Sikkim shall be transferred to, and vested in, the Sikkim State Co-operative Bank Ltd. The Bill also provides for the transfer of the service of the employees of the State Bank of Sikkim to the Sikkim State Co-operative Bank Ltd. and also for the payment of amounts to the shareholders whose shares are proposed to be acquired and for certain other incidental and consequential matters.

NEW DELHI;  
The 7th August, 1982.

PRANAB MUKHERJEE.

## FINANCIAL MEMORANDUM

Clause 8(1) of the Bill provides for the payment of an amount of Rs. 8,05,145 by the Central Government in cash to the shareholders of the State Bank of Sikkim whose shares are proposed to be acquired. Sub-clause (2) of this clause provides for the payment of simple interest at the rate of five and a half per cent. per annum to such shareholders for the period commencing on the appointed day and ending on the date on which payment of such amount is made to the shareholders. It is not possible to estimate precisely the amount payable on this account as this will depend on the time taken for the payment of the amount due to the various shareholders.

2. The Bill, if enacted and brought into operation, is not likely to involve any other expenditure either recurring or non-recurring.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules for, *carrying out the provisions of the Bill*. The matters in respect of which such rules may be made would relate to matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of the legislative power is, therefore, of a normal character.

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AVTAR SINGH RIKHY,  
*Secretary.*